

REMARKS

Restriction has been required by the Examiner on the allegation that the claims are directed to patentably distinct species:

Species A: strontium ferrite

Species B: barium ferrite

Additionally,

Species a: iron, and

Species b: magnetite

However, the restriction requirement does not appear proper because both strontium ferrite and barium ferrite are art well-known ceramic magnetic materials – and thus not patentably distinct species for this reason.

Further, with regard to iron and magnetite, it is classically well known in the art that these, along with any magnetically soft alloy constitutes a magnetic attracting material – and for this reason, iron and magnetite as magnetic attracting materials are not patentably distinct species. This is made clear on page 4, lines 12 to page 5, line 2 of applicant's application.

37 CFR 1.141(a) allows that while two or more independent and distinct inventions may not be claimed in one national application, the exception is that more than one species of an invention not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an allowable generic claim to all the claimed species and all the claimed species in excess of one are written

independent form (§1.75) or otherwise include all the limitations of the generic claim. On the basis of this authority, and cases construing the same, the magnetic materials of strontium ferrite and barium ferrite may be claimed in a single application. Similarly, the magnetic attracting materials of iron and magnetite, even if regarded as more than one species may be claimed in one national application – and this is especially true provided they are claimed in different claims.

Applicant's attorney is willing to amend the claims as follows to enable elimination of Elections/Restriction Requirement, as follows:

14. (Presently Amended) A permanent ground covering mulch of a self-coherent particulate magnetic material comprising: a mixture of a particulate ceramic magnetic attracting material ~~selected from the group consisting of~~ strontium ferrite ~~barium ferrite~~ and a particulate magnetic attracting material ~~selected from the group consisting of~~ iron or magnetite; said particulate ceramic magnetic material comprising magnetic particles of a dimension of from about 1 to about 25 millimeters and comprising at least 50% by volume of said mixture.

16. (Presently Amended) A permanent ground covering mulch of a self-coherent particulate magnetic material comprising: a mixture of a particulate magnetic ceramic material ~~selected from the group consisting of~~ strontium ferrite and a particulate magnetically inert material; said particulate magnetic ceramic material comprising magnetic particles of a dimension of from about 1 to about 25 millimeters and comprising at least 50% by volume of said mixture.

21. (New) A permanent ground covering mulch of a self-coherent particulate magnetic material comprising: a mixture of a particulate ceramic magnetic material of strontium ferrite and a particulate magnetic attracting material of magnetite; said particulate ceramic magnetic

material comprising magnetic particles of a dimension of from about 1 to about 25 millimeters and comprising at least 50% by volume of said mixture.

22. (New) A permanent ground covering mulch of a self-coherent particulate magnetic material comprising: a mixture of a particulate ceramic magnetic material of barium ferrite and a particulate magnetic attracting material of iron; said particulate ceramic magnetic material comprising magnetic particles of a dimension of from about 1 to about 25 millimeters and comprising at least 50% by volume of said mixture.

23. (New) A permanent ground covering mulch of a self-coherent particulate magnetic material comprising: a mixture of a particulate ceramic magnetic material of barium ferrite and a particulate magnetic attracting material of magnetite; said particulate ceramic magnetic material comprising magnetic particles of a dimension of from about 1 to about 25 millimeters and comprising at least 50% by volume of said mixture.

The Examiner is authorized to amend the claims as indicated, if need be.

Whether one is discussing the permanent ground covering mulch of a self-coherent particulate magnetic material and a particulate magnetic attracting material – it is a single inventive concept that runs throughout the claims under consideration – and that is a permanent ground covering mulch not susceptible to being moved or scattered by wind and/or rain because of its self-coherent characteristics due to the specific compositional mix and the dimensions of the particulate magnetic material in a specific volume amount to allow the mulch to be easily spread but yet resist movement under the effects of wind and rain. Accordingly, the guideline for requiring restriction has not been met due to the fact that there is a single inventive concept that ties together the various groups of claims.

In view of the foregoing election with traverse, and explanations and arguments that a single inventive concept runs throughout the described claims and the fact that 37 CFR 1.141 (a) allows more than one species of an invention to be present in a national application as long as they are specifically claimed in different claims, it is urged that the Election/Restriction Requirement should be withdrawn in favor of the proposed claims, which the examiner is authorized to insert or contact applicant's representative thereon.

Respectfully submitted,



Jerome J. Norris
Attorney for Applicant
Registration No. 24,696

Law Offices of Jerome J. Norris
1901 Pennsylvania Avenue, N.W. Suite 305
Washington, D.C. 20006
Telephone: (202) 737-4410
Facsimile: (202) 737-3315
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